

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

UNITED STATES OF AMERICA)
)
)
)
vs.) CAUSE NO. 3:87-CR-00017(01) RM
)
)
)
MARK W. SCHMANKE)
)

OPINION AND ORDER

Mark Schmanke has filed three separate motions to correct his sentence under the version of FED. R. CRIM. P. 35 that applies to crimes committed before November 1, 1987 (before that rule's amendment by Pub. L. 98-473). He has also filed what he captions as an "Expedited Application for Release on Bail". The court also received numerous letters from Mr. Schmanke's family and friends urging his immediate release. The court of appeals has reviewed and affirmed the validity of Mr. Schmanke's sentence twice already, once on direct appeal, and once on collateral review of his habeas corpus petition. Because this court lacks the jurisdiction and authority to grant the relief Mr. Schmanke seeks, the court denies the motions now pending.

This court sentenced Mr. Schmanke to a term of 20 years' imprisonment on February 25, 1988. Under the parole rules in effect at the time of his sentencing he was placed on parole just six years later, in March 1994. Over the past eleven years, Mr. Schmanke has violated the terms of his parole repeatedly, and so has spent much of that time in custody. He is now in custody at the Metropolitan

Correctional Center in Chicago, Illinois for his latest parole violation. Mr. Schmanke's parole status rests in the hands of the Parole Commission, not this court. Accordingly, the court DENIES Mr. Schmanke's Rule 35 motions and his application for release [docket nos. 151, 156, 161, and 162] as improperly addressed to the wrong authority. Mr. Schmanke should work with his recently appointed counsel to direct his arguments to the Parole Commission.

SO ORDERED.

ENTERED: June 14, 2005

/s/ Robert L. Miller, Jr.
Chief Judge,
United States District Court

cc: M. Schmanke